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NPR 2092.1A

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COMPLIANCE IS MANDATORY

Distribution of Royalties Received by NASA from the Licensing or Assignment of Inventions

Responsible Office: Office of the General Counsel

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Preface

P.1 Purpose

NASA may receive royalties or other payments as a result of the licensing or assignment of inventions described and claimed in patents and patent applications, or as otherwise provided by law. NASA, in accordance with law, must distribute a percentage of such royalties and other payments it receives to the U.S. Government employee inventors and to individuals who have directly assigned their undivided interests in an invention to NASA. The balance of any royalties or other payments remaining after such distributions are to be made available for use by NASA Headquarters, NASA Centers, the NASA Management Office-Jet Propulsion Laboratory (JPL), and Component Facilities. Additionally, royalties or other payments received from the licensing of patents and patent applications for inventions made by contractors or grantees, where title to such inventions has been assigned to or is otherwise vested in NASA, are to be made available for use by NASA Headquarters, the NASA Centers, the NASA Management Office--JPL, and Component Facilities. This NPR establishes the responsibilities and procedures for such distributions.

P.2 Applicability

P.2.1 This NPR is applicable to NASA Headquarters and NASA Centers, including Component Facilities.

P.2.2 This NPR applies to royalties or other payments received on account of an invention made in whole or in part by a NASA employee, an individual directly assigning his or her interest in an invention to the U.S. Government, or an employee of another U.S. Government agency when such invention is assigned to NASA.

P.2.3 This NPR applies to royalties or other payments received on account of an invention made by an employee of another U.S. Government agency in which custody of the invention has been transferred to NASA, pursuant to 35 U.S.C. 207, unless otherwise agreed between NASA and the transferring agency.

P.2.4 This NPR is applicable to royalties or other payments received on account of a licensed invention made solely by contractors or grantees in which the title to such inventions has been assigned to or otherwise vested in NASA.

P.2.5 This NPR is applicable to royalties or other payments received on account of a licensed invention made solely by contractors or grantees of another government agency in which custody of the invention has been transferred to NASA, pursuant to 35 U.S.C. 207, unless otherwise agreed upon between NASA and the transferring agency.

P.2.6 The term "royalties and other payments" means any money, including licensing fees, received as consideration for NASA granting a license or other rights in an invention.

P.3 Authority

15 U.S.C. 3710c.

P.4 References

- a. NPD 2092.1, Royalties and Other Payments Received by NASA from the Licensing or Assignment of Inventions.
- b. NPD 2091.1, Inventions Made by Government Employees.

P.5 Cancellation

NPR 2092.1, dated July 9, 1998.

**/S/ Jason E. Steptoe for
Paul G. Pastorek
General Counsel**

CHAPTER 1. Responsibility

1.1 Associate General Counsel (Intellectual Property)

The Associate General Counsel (Intellectual Property) is responsible for ensuring that all royalties and other payments received from the licensing of inventions described and claimed in patents and patent applications, or as otherwise provided by law, are forwarded, along with the identification of the NASA Centers or facilities in which the inventions were made and the identities of the inventors or coinventors entitled to receive royalty payments, to the Office of the Chief Financial Officer for distribution.

1.2 Chief Financial Officer, Office of the Chief Financial Office

1.2.1 The Chief Financial Officer, Office of the Chief Financial Officer, is responsible for the following activities:

a. Establishing and maintaining a system for the accounting and distribution of royalties and other payments. Inventors receiving royalty payments shall receive a letter containing

- 1) the name of the licensee and the license number,
- (2) the total amount of the royalties from which the distribution is being made,
- (3) the date royalties were received, and
- (4) a reference to this NPR.

b. Notifying the Center Directors; Director, NASA Management Office--JPL; and Director, Office of Headquarters Operations, of the amount of royalties and other payments available for distribution to their facilities, and informing the Office of the General Counsel and the Chief Engineer (as Chair of the Inventions and Contributions Board) of the distribution.

1.3 Center Directors; Director, NASA Management Office--JPL; and Assistant Administrator, Institutional and Corporate Management

1.3.1 Center Directors; Director, NASA Management Office--JPL; and Assistant Administrator, Institutional and Corporate Management are responsible for the following activities:

- a. Ensuring that all royalties and other payments available for distribution to their facilities are used and obligated.
- b. Keeping the Institutional Associate Administrators informed.

1.4 Inventors

1.4.1 It is each inventor's responsibility to keep both the Chief Financial Officer, Office of the Chief Financial Officer, and the Office of Patent Counsel at the appropriate NASA facility apprised of his or her current address and telephone number. Any changes should be provided in writing to the following individual:

Director, Financial Management Division

National Aeronautics and Space Administration

Code BF

Washington, DC 20546

If reasonable attempts to obtain current information for a particular inventor fail, the royalties to be distributed shall be recalculated without the inventor's participation in accordance with subparagraph 2.2. If the particular inventor is later located, he or she will be included in future royalty distributions, but past royalties not received will not be restored.

1.4.2 Subject to applicable law, NASA shall distribute a deceased inventor's share of royalty payments to the inventor's estate provided that the estate is legally in existence. Upon notification of the death of an inventor, the Office of Patent Counsel at the appropriate NASA facility will make reasonable efforts to contact the inventor's personal representative to obtain information needed to establish the existence of an estate and to distribute royalties to the estate. If reasonable efforts to obtain the needed information for a particular inventor's estate fail, the royalties to be distributed shall be recalculated without the participation of the inventor's estate in accordance with subparagraph 2.2. If the needed information is obtained at a later date, the inventor's estate will be included in future royalty distributions, but past royalties will not be restored. It is the responsibility of the inventor's personal representative to provide current information to the NASA officials listed in subparagraph 1.4.1.

CHAPTER 2. Distribution of Royalties

2.1 Distribution of Royalties

Whenever NASA licenses, or otherwise enters into a transaction for the use of one or more inventions described and claimed by one or more patents and/or patent applications, any royalties or other payments received from such activities shall be distributed to the inventors who have directly assigned their interests in such inventions to the Government, in accordance with subparagraph 2.2, and to the appropriate NASA facility or facilities, in accordance with subparagraph 2.3.

2.2 Distribution to Employees Named as Inventors and Other Inventors Assigning Their Undivided Interests in Inventions to NASA

2.2.1 Distribution of royalties or other payments shall be calculated on a fiscal year basis.

2.2.2 Distribution of royalties or other payments to any one recipient shall not exceed \$150,000 per calendar year, unless the President approves a larger amount (with the excess over \$150,000 being treated as a Presidential Award under Section 4504 of Title 5, U.S.C.). Monies remaining after distribution under this subparagraph shall be distributed in accordance with subparagraph 2.3.

2.2.3 Distribution shall be calculated on a per license or a per transaction basis. If one inventor is named, that inventor shall receive the first \$5,000, plus 25 percent of the remainder. For two to four inventors, each inventor shall receive an equal share up to \$5,000 each, plus 25 percent of the remainder up to the first \$25,000 received, and an equal share of 30 percent of the remainder after the first \$25,000 received by NASA. For five or more inventors, each inventor shall receive an equal share of the first \$25,000 received plus an equal share of 30 percent of the remainder after the first \$25,000 received by NASA.

2.3 Center Directors

2.3.1 The Center Directors; Director, NASA Management Office--JPL; or the Assistant Administrator, Institutional and Corporate Management will be notified by the Office of the Chief Financial Officer of the balance of any royalties or other payments that are, after payment to the inventors made in accordance with subparagraph 2.2 and subject to the limitations of subparagraph 2.4, available for distribution to their facility or facilities. Notification will also be given as to the amounts of royalties or other payments received from the licensing of inventions made by contractors or grantees, in which title to such inventions has been assigned or otherwise vested in NASA, that are available (subject to the limitations of subparagraph 2.4) for distribution to the Centers or the NASA Management Office--JPL (in cases where the contracts or grants originated at the Centers or at the NASA Management Office--JPL), or NASA Headquarters (in cases where the contracts or grants originated at NASA Headquarters).

2.3.2 Royalties and other payments so transferred may be used for the following purposes:

- a. Payment of expenses incidental to the administration and licensing of intellectual property (including patent application preparation, prosecution, maintenance fees, travel, and other costs) incurred by the Agency or the facility or facilities.
- b. Scientific research and development consistent with the research and development missions and objectives of the Agency and the facility or facilities.
- c. Education and training of employees consistent with the research and development missions and objectives of the Agency or the facility and for other activities that increase the potential for transfer of the technology of the various

Centers.

d. To further scientific exchange among the various Centers.

e. To be used to reward scientific, engineering, and technical employees of the facility, including developers of sensitive or classified technology, regardless of whether the technology has commercial applications.

2.3.3 Transfer of royalties or other payments to a facility or facilities will be made on a semiannual basis. The royalties or other payments so transferred to the facility must be used or obligated in the fiscal year they are issued or during the 2 succeeding fiscal years. Royalties or other payments not used or obligated within that period will be transferred to the Treasury of the United States.

2.4 Excess Royalties and Other Payments

If, after payment to inventors under subparagraph 2.2, the royalties or other payments received by NASA in any fiscal year exceed 5 percent of the budget of the NASA facility or facilities in which the licensed inventions producing such royalties or other income were made, then 75 percent of such excess will be paid to the Treasury of the United States by NASA, and the remaining 25 percent shall be made available for use and obligations in accordance with subparagraph 2.3.